

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE**

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IN RE: Request from Australia)
Pursuant to the Treaty Between the)
Government of the United States of)
America and the Government of)
Australia on Mutual Assistance in)
Criminal Matters in the Matter of)
Masud Behnia)
-----X

No. *1 06-mc-004-JM*

ORDER

Upon application of the United States, and upon review of the request from Australia seeking evidence under the Treaty Between the Government of the United States of America and the Government of Australia on Mutual Assistance in Criminal Matters, 1997 WL 597540 (Treaty), entered into force September 30, 1999, and the Court having fully considered this matter,

IT IS HEREBY ORDERED, pursuant to the authority conferred by the Treaty, as well as 28 U.S.C. § 1782 and this Court's inherent authority, that Assistant United States Attorney Michael J. Gunnison, or a substitute or successor designated by the Office of the United States Attorney, is appointed as Commissioner (hereinafter referred to as the "Commissioner") of this Court and hereby directed to execute the Treaty request. In doing so, the Commissioner is not required to follow the Federal Rules of Civil Procedure and the following rules shall govern:

1. the Commissioner may issue commissioner's subpoenas to be served at any place within the United States on persons (natural and artificial) ordering them or their representatives to appear and to testify and produce evidence located within the United States;

2. the Commissioner shall provide notice with respect to the collection of evidence to those persons identified in the request as parties to whom notice should be given (and no notice to any other party shall be required);

3. the Commissioner shall adopt procedures to collect the evidence requested consistent with its use in the investigation or proceeding for which Australia has requested assistance, which procedures may be specified in the request or provided by or with the approval of the Australian Central Authority under the Treaty;

4. the Commissioner, in collecting the evidence requested, may be accompanied by persons whose presence or participation is authorized by the Commissioner, including, without limitation, special agents of the Federal Bureau of Investigation and/or representatives of Australia who, as authorized or directed by the Commissioner, may direct questions to any witness;

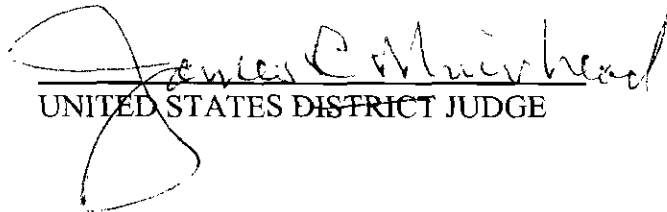
5. any person from whom the Commissioner seeks to collect evidence may, for good cause shown, oppose the giving of evidence, or the circumstances thereof, by motion timely filed with this Court, a copy of which shall be provided contemporaneously to the Commissioner;

6. the Commissioner may seek such further orders of this Court as may be necessary to execute this request, including orders to show cause why persons served with commissioner's subpoenas who fail to produce evidence should not be held in contempt; and

7. the Commissioner shall certify and submit the evidence collected to the Office of International Affairs, Criminal Division, U.S. Department of Justice, or as otherwise directed by that office for transmission to Australia.

IT IS FURTHER ORDERED that the Application and this Order shall be maintained under seal unless and until this Court orders otherwise. Notwithstanding this Order's filing and maintenance under seal, the Commissioner may disclose copies of this order as necessary to accomplish the purposes of the request.

IT IS FURTHER ORDERED that Bank of America shall not disclose to its customer, Masud Behnia, or to any person jointly holding an account with that customer, any aspect of this matter, including the fact that it has received a subpoena or has given testimony or evidence in response thereto.


UNITED STATES DISTRICT JUDGE

Dated: January 26, 2006